

STATE OF INDIANA – COUNTY OF TIPPECANOE  
IN THE TIPPECANOE CIRCUIT AND SUPERIOR COURTS

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**NOTICE OF PROPOSED LOCAL RULE AMENDMENT AND  
FINDING OF GOOD CAUSE TO DEVIATE FROM ESTABLISHED SCHEDULE**

**June 1, 2014**

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In accordance with Trial Rule 81, the judges of the Tippecanoe Circuit and Superior Courts hereby give notice to the local bar and the public that they propose to amend LR79-AR 1(E) Rule 1, the county's caseload plan, and LR79-CR00 Rule 16, the county's bail schedule, to address changes to the criminal code. The judges hereby find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D) because the proposed changes are necessary to address statutory changes that take effect on July 1, 2014.

The proposed rules are set forth below, with new text shown by underlining and deleted text shown by ~~striketrough~~.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on June 1, 2014, and shall close on June 30, 2014. The amendments will be effective July 1, 2014 or upon approval of the Indiana Supreme Court if approval is necessary.

Comments by the bar and the public should be made in writing and mailed to:

Magistrate Sean M. Persin  
Attention: Public Comment on Local Rule Changes  
Courthouse, First Floor  
301 Main Street  
Lafayette, Indiana 47901

A paper copy of this proposed local rule change will be made available for viewing, during regular business hours, in the office of the:

Clerk of Tippecanoe County  
Courthouse, Second Floor  
301 Main Street  
Lafayette, Indiana 47901

Persons with internet access may also view the proposed local rule changes on the website of the Clerk of Tippecanoe County.

Honorable Donald L. Daniel  
Honorable Randy J. Williams  
Honorable Thomas H. Busch  
Honorable Faith A. Graham  
Honorable Gregory J. Donat  
Honorable Les A. Meade  
Honorable Michael A. Morrissey

Tippecanoe Circuit Court  
Superior Court of Tippecanoe County  
Superior Court No. 2 of Tippecanoe County  
Superior Court No. 3 of Tippecanoe County  
Superior Court No. 4 of Tippecanoe County  
Superior Court No. 5 of Tippecanoe County  
Superior Court No. 6 of Tippecanoe County

### LR79-AR 1(E) Rule 1. County Caseload Plan

As of the date of the Order adopting these Rules, and subject to any modifications which may subsequently be made, the Tippecanoe County Caseload Plan reads as follows:

All cases wherein the most serious charge alleged is Murder, a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony and those Class D felonies or Level 6 felonies specified below shall be assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County, on a random basis according to the following ratio:

| Court                                     | Ratio |
|---|-------|
| Tippecanoe Circuit Court                  | 2     |
| Superior Court of Tippecanoe County       | 4     |
| Superior Court No. 2 of Tippecanoe County | 4     |

For any defendant who has a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony case pending or who is serving a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony sentence, whether executed or suspended, any new case in which the most serious charge alleged is a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 felony shall be filed in the court having jurisdiction of the oldest such prior case. Upon learning that such a case has been filed in the wrong court, the prosecutor shall within 14 days move to transfer the case to the proper court.

Class D felony and Level 6 felony cases assigned to Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County are as follows:

|   |   |
|---|---|
| <del>I.C. 35-42-2-1(a)-(2)(b)</del>     | Battery on a Child                        |
| <del>I.C. 35-42-4-4(b)(1) and (2)</del> | Possession of Child Pornography           |
| <del>I.C. 35-42-4-5(a)</del>            | Child Exploitation                        |
| <del>I.C. 35-42-4-6</del>               | Vicarious Sexual Gratification            |
| <del>I.C. 35-42-4-7</del>               | Child Solicitation                        |
| <del>I.C. 35-42-4-9(b)</del>            | Child Seduction                           |
| <del>I.C. 35-42-4-9(b)</del>            | Sexual Misconduct with a Minor            |
| <del>I.C. 35-49-3-3</del>               | Dissemination of Matter Harmful to Minors |

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|                              |   |
|------------------------------|---|
| <del>I.C. 35-46-1-4</del>    | Neglect of a Dependent                                |
| <del>I.C. 35-43-1-1(d)</del> | Arson   |
| <del>I.C. 35-48-4-4</del>    | <del>Dealing in Schedule V Controlled Substance</del> |
|                              | <del>Sexual Conduct in Presence of Minor</del>        |
|                              | <del>Kidnapping</del>                                 |

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All Class D felonies, Level 6 felonies, misdemeanors, and infractions alleging a violation of Indiana Code Title 9, Traffic Code, and only those civil plenary cases with claims up to \$10,000 shall be assigned to Superior Court No. 6 of Tippecanoe County.

All Class D felonies, Level 6 felonies, misdemeanors, and infractions alleging a violation of Indiana Code Title 35, Article 48, Controlled Substances, and not set forth in paragraph 2 above, and only those civil cases involving small claims and landlord tenant's claims, shall be filed in Superior Court No. 4 of Tippecanoe County. Glue Sniffing, in violation of Indiana Code 35-46-6-2, and Public Intoxication cases shall be filed in Superior Court No. 4 of Tippecanoe County.

All remaining Class D felonies, Level 6 felonies, misdemeanors, and infraction cases not specifically set forth above shall be filed in Superior Court No. 5 of Tippecanoe County.

Superior Court No. 3 of Tippecanoe County exercises juvenile jurisdiction and will not receive filings of felony or misdemeanor cases. A case wherein juvenile jurisdiction is waived may be assigned to a court by agreement of the parties. In the absence of such agreement, the case shall be filed in accordance with the Local Rule on Assignments of Criminal Cases.

When it is alleged that defendants jointly commit a crime or crimes and the most serious charge alleged is Murder, the cases shall be assigned together to Tippecanoe Circuit Court, Superior Court of Tippecanoe County or Superior Court No. 2 of Tippecanoe County on a random basis in the ratio of 2:4:4 set forth above.

Where it is alleged that defendants jointly commit a crime or crimes, and the most serious charge alleged is a Class A, B or C felony or a Level 1, 2, 3, 4 or 5 felony, their cases shall be filed together in the same court. In any such cases where one or more of the defendants has a Class A, B or C felony or a Level 1, 2, 3, 4 or 5 felony case pending or is serving a Class A, B, or C felony or a Level 1, 2, 3, 4 or 5 sentence, whether executed or suspended, all the cases shall be filed in the court having jurisdiction of the oldest such prior case.

Any case in which the most serious charge is a Class D felony, Level 6 felony, misdemeanor or infraction shall be filed as specified above, notwithstanding any charges against co-defendants.

A judge, by appropriate order may transfer and reassign to any other court of record in the county, any pending case, subject to acceptance by the receiving court.

A case transferred to Tippecanoe County by reason of change of venue from another county may be assigned to a court by agreement of the parties. In the absence of such an agreement, the case shall be filed in accordance with this Local Rule on Case Assignments.

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which dismissal was taken.

All petitions for civil orders of protection shall be filed initially in Superior Court No. 5 of Tippecanoe County.

Petitions for dissolution of marriage in which a fee waiver is requested shall be filed in Superior Court No. 2.

Petitions to ~~expunge arrest records (I.C. 35-38-5-1), petitions to limit access to criminal history (I.C. 35-38-5-5) and petitions to seal~~ expunge records (I.C. 35-38-9-1) shall be filed in the cause in which the charges were filed, and if no charges were filed, then said petitions shall be filed in Tippecanoe Superior Court No. 2 under a new miscellaneous criminal (MC) cause ~~without paying a filing fee.~~

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Petitions to expunge misdemeanor convictions (I.C. 35-38-9-2), minor Class D felony convictions (I.C. 35-38-9-3), less serious felony convictions (I.C. 35-38-9-4), and certain serious felony convictions (I.C. 35-38-9-5) shall be filed under a new miscellaneous civil (MI) cause ~~and the petitioner must pay the proper filing fee for a new civil action.~~ Said petitions shall be filed in the court in which conviction was entered, unless the petition seeks to expunge convictions from multiple courts, then the petition shall be filed in Tippecanoe Superior Court No. 2.

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Petitions to expunge records concerning a delinquent child or a child in need of services (I.C. 31-39-8) or petitions to seal records of a juvenile (I.C. 35-38-9-1) shall be filed in Tippecanoe Superior Court No. 3 without paying a filing fee. Said petitions shall be filed in the cause previously opened, unless a cause was not opened, then said petition shall be filed under a new miscellaneous criminal (MC) cause without paying a filing fee.

The Presiding Judge of the Superior Courts 4, 5, and 6 shall assign the Magistrate to serve any of the Tippecanoe Circuit or Superior Courts in a manner which provides the greater assistance to the courts with greater caseloads. Considering the 2012 caseloads, the Superior Court No. 4 will be limited to one-

half day each week and the Circuit Court to two one-half days each week. The balance of the Magistrate's time will be allocated to the courts as set forth above.

In all other civil cases, parties may file in the court of their choosing.

*Adopted Aug. 1, 2006, effective Jan. 1, 2007. Amended Nov. 30, 2007, effective Jan. 1, 2008; amended Jan. 6, 2010, effective Jan. 1, 2010; amended Oct. 10, 2011, effective retroactive to Jan. 1, 2011; amended effective September 1, 2012, amended effective September 1, 2013. Amended effective July 1, 2014.*

#### **LR79-CR00-Rule 16. BAIL SCHEDULE**

Unless otherwise ordered by a judicial officer, the Sheriff of Tippecanoe County is hereby ordered to follow this bail schedule for the setting of bail for all persons arrested without warrants for criminal offenses committed in Tippecanoe County:

|  |  |
|--|--|
| <del>▲ Murder</del>  | <del>No Bond</del>                               |
| <del>▲ Attempted Murder or Class A felony committed with deadly weapon</del>     | <del>\$50,000 surety and \$5,000 cash*</del>     |
| <del>▲ Class A felony</del>  | <del>\$25,000 surety and \$2,500 cash*</del>     |
| <del>▲ Class B felony</del>  | <del>\$12,500 surety and \$1,250 cash*</del>     |
| <del>▲ Class C felony</del>  | <del>\$5,000 surety and \$500 cash*</del>        |
| <del>▲ Escape, Habitual Substance Offender, Failure to Register (D felony)</del> | <del>\$5,000 surety only</del>                   |
| <del>▲ Class D felony</del>  | <del>\$5,000 surety or cash bond of \$500*</del> |
| <del>▲ Class A misdemeanor</del>   | <del>\$2,500 surety or cash bond of \$250*</del> |
| <del>▲ Class B misdemeanor</del>   | <del>\$2,500 surety or cash bond of \$250*</del> |
| <del>▲ Class C misdemeanor</del>   | <del>\$2,500 surety or cash bond of \$250*</del> |

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| <u>OFFENSE CLASS</u>  | <u>CASH AMOUNT* +</u> | <u>SURETY AMOUNT</u> |
|---|-----------------------|----------------------|
| <u>Murder</u>   | <u>No Bond</u>        | <u>No Bond</u>       |
| <u>Level 1 felony</u>   | <u>\$5,000</u>        | <u>\$50,000</u>      |
| <u>Level 2 felony</u>   | <u>\$2,500</u>        | <u>\$25,000</u>      |
| <u>Level 3 felony</u>   | <u>\$1,500</u>        | <u>\$15,000</u>      |
| <u>Level 4 felony</u>   | <u>\$1,000</u>        | <u>\$10,000</u>      |
| <u>Level 5 felony</u>   | <u>\$500</u>          | <u>\$5,000</u>       |
| <u>Level 6 felony</u>   | <u>\$500</u>          |                      |
| <u>Misdemeanors</u>   | <u>\$250</u>          |                      |
| <u>Escape (L6)</u><br><u>Failure to Register (L6)</u><br><u>Habitual Offender</u> | <u>Surety only</u>    | <u>Surety only</u>   |

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\* The ~~cash amount~~ CASH AMOUNT shown above represents the 10% cash bond amount if posted through the Clerk with an executed Agreement on Disposition of Bonds.

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**A. Multiple offenses.** If a person is arrested for allegedly committing more than one offense, bail shall be in the amount established for the most serious offense.

**B. Posting Bond.** The total surety and total cash (100% of cash – not 10% cash) amounts may be paid in full with cash only or surety bond only, unless otherwise ordered by a judicial officer. Property bonds must first be approved by a Judge. When a 10% cash bond is posted with the Clerk, the arrested person and depositor must sign an Agreement on Disposition of cash bond, and the 10% cash bond must be posted in the arrested person's name only. Upon non-filing, dismissal, or acquittal, the 10% cash bond posted may be returned less publicly paid costs of representation and the administration fee. Otherwise, after the sentencing of an arrested person, the 10% cash bond will be retained by the Clerk to pay public defender fees, restitution, court costs, fines or other fees ordered by the Court.

**C. No bond until seen by judicial officer.** This bail schedule shall not be used for any person arrested for committing an offense, attempting to commit an offense, or conspiracy to commit an offense, listed below:

Child Molesting  
Child Solicitation  
Rape  
Criminal Deviate Conduct  
Vicarious Sexual Gratification  
Sexual Conduct in Presence of Minor  
Child Exploitation  
Child Seduction  
Sexual Battery  
Kidnapping of Minor  
Criminal Confinement of Minor  
Possession of Child Pornography  
Promoting Prostitution  
Promoting Human Trafficking of Minor  
Sexual Misconduct with a Minor  
Incest

In these cases, the amount and conditions of bail will be set by a judicial officer following a bail hearing in open court not more than forty-eight (48) hours after the person has been arrested, except if the person is arrested when the courthouse is closed, then the bail hearing will be held on the next working day. The Sheriff shall notify the Magistrate's Court and the Prosecuting Attorney's Office of any persons held without bail pursuant to this provision.

~~**C. Crimes resulting in bodily injury or alleging domestic violence.** If a person is arrested for a crime (other than a driving offense) that results in bodily injury to a victim or that alleges domestic violence, the person shall be detained for twelve (12) hours without the opportunity to post bond. After the expiration of twelve (12) hours, the person may be released upon the posting of bond in the amount set forth in the bond schedule above, and by signing and agreeing to follow a "10 DAY NO CONTACT ORDER AS A CONDITION OF PRE TRIAL RELEASE" as to the alleged victim(s), as set forth in Appendix A below. The person shall not be released without their signature, even if they post the monetary bond. When the person is released, the Sheriff shall provide notification to any alleged victims if so requested.~~

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**D. No-Contact Order and 12 Hour Hold Required.** If a person is arrested for a "crime of domestic violence," a crime of violence (other than a driving offense) resulting in bodily injury to a victim, or a crime listed below, the person shall be detained for twelve (12) hours without the opportunity to post bond.

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Battery resulting in bodily injury

Aggravated Battery  
Domestic Battery  
Criminal Recklessness resulting in bodily injury  
Criminal Recklessness with a firearm  
Strangulation  
Criminal Confinement  
Custody Interference  
Intimidation  
Harassment  
Stalking  
Invasion of Privacy

After the expiration of twelve (12) hours, the person may be released upon the posting of bond in the amount set forth in the bond schedule above, and by signing and agreeing to follow a "10 DAY NO-CONTACT ORDER AS A CONDITION OF PRE-TRIAL RELEASE" as to the alleged victim(s), as set forth in Appendix A below. The person shall not be released without their signature, even if they post the monetary bond. When the person is released, the Sheriff shall provide notification to any alleged victims if so requested.

**DE.** **Exceptions to the bond schedule.** All persons living outside Tippecanoe County or its adjacent counties (including Benton, Carroll, Clinton, Fountain, Montgomery, Warren and White) must post bond pursuant to the bail schedule above. However, the following exceptions apply to persons living in Tippecanoe County and its adjacent counties:

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1. *Public Intoxication:* Hold 12 hours, then release on own recognizance if not impaired.
2. *Operating While Intoxicated or Operating Over Legal Limit (Misdemeanor):* Hold for time period specified below, then release on own recognizance.

|                               |          |
|-------------------------------|----------|
| .08 - .09                     | 3 hours  |
| .10 - .11                     | 4 hours  |
| .12 - .13                     | 5 hours  |
| .14                           | 6 hours  |
| .15 - .16                     | 7 hours  |
| .17                           | 8 hours  |
| .18 - .19                     | 9 hours  |
| .20                           | 10 hours |
| .21 - .22                     | 11 hours |
| .23 or breath<br>test refusal | 12 hours |
| .24 - .25                     | 13 hours |
| .26                           | 14 hours |



|              |          |
|--------------|----------|
| .27 - .28    | 15 hours |
| .29          | 16 hours |
| .30          | 17 hours |
| .31 or above | 24 hours |

3. *Minor Consuming (Class C Misdemeanor), Possession of Marijuana (Class A and Class B Misdemeanor), Possession of Paraphernalia (Class A and Class B Misdemeanor):* If not impaired at time of arrest, book-in and immediately release on own recognizance. If impaired or actively using at the time of arrest, book-in, hold a minimum of four hours (and longer if still impaired after four hours) and then release on own recognizance.

4. *Operating While Suspended (Class A Misdemeanor) or Operating While Never Receiving a License (Class C Misdemeanor):* Release on own recognizance.

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#### **EF. Deviations from Bail Schedule.**

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1. *Before Initial Hearing:* A judicial officer may deviate from the Bail Schedule, or order that the arrested person be held without bail until seen by a judicial officer, upon reviewing a verified motion concerning safety or flight.

2. *At Initial Hearing:* A judicial officer may deviate from the Bail Schedule, and may order other conditions of pre-trial release, after considering evidence at the Initial Hearing.

3. *After Initial Hearing:* Once a judicial officer has set the amount of bail or other conditions of pre-trial release after the Initial Hearing, motions to modify the order shall be presented to the respective court in writing, and proper notice of the hearing shall be given to the parties and attorneys of record.

**FG. Waiver from Juvenile Court.** When a child is waived to adult court, the initial bail amount set in the juvenile court shall remain in effect unless and until it is modified in the adult court.

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**GH. Conditions of Pre-Trial Release.** Whether released after posting bond, or released on their own recognizance, the arrested person's pre-trial release is conditioned upon maintaining good and lawful behavior, appearing in court for all court appearances, informing the respective court in writing of any change of address within 48 hours, not using or possessing illegal drugs or alcohol, and complying with all other conditions of pre-trial release set by a judicial officer. For all Class A, B, and C felony and Level 1, 2, 3, 4 and 5 offenses, the arrested person may not leave the State of Indiana without prior approval of the court. A

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violation of any condition of pre-trial release may result in the court revoking the arrested person's bond and the issuing a warrant for arrest.

*Adopted April 1, 2013, effective April 1, 2013. Amended effective July 1, 2014.*

## APPENDIX A

### **10 DAY NO-CONTACT ORDER** **AS A CONDITION OF PRE-TRIAL RELEASE**

The Arrested Person listed above has been arrested for committing a violent crime resulting in bodily injury to another person, a crime of domestic violence, or other crime concerning the safety of another person. As a condition of their release from jail, the Arrested Person shall have no contact with the Protected Person listed below, effective immediately, and lasting for ten (10) days **after being released from jail**. This order is issued in accordance with Tippecanoe County Local Rule 16 and Indiana Code 35-3-8-3.6.

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To be read and initialed by the Arrested Person:

\_\_\_\_\_ For 10 days **after my release from jail**, I cannot have any contact with the Protected Person, directly or indirectly, even if they contact me first, and even if they tell me that it is okay.

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\_\_\_\_\_ "No contact" means that I cannot be within the eyesight of the Protected Person, their home, or any other place where I know they will likely be located. It also means that I cannot contact the Protected Person by telephone, text, correspondence, fax, Facebook, or any other means, even while I am in jail.

\_\_\_\_\_ I cannot use or possess alcohol or illegal controlled substances while this matter is pending.

\_\_\_\_\_ I cannot possess any firearms, ammunition or other dangerous weapons while this matter is pending, and I will surrender any such items to law enforcement for safekeeping until this matter is resolved.

\_\_\_\_\_ If I intentionally violate this 10 Day No-Contact Order As A Condition Of Pre-Trial Release, my bond may be revoked (meaning I may be held in jail until my case is resolved) and/or I may be charged with a separate crime of Invasion of Privacy.

I understand and agree to the above conditions.